IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

MFA.No. 1301 of 2002(B)

(AGAINST THE AWARD DATED 25/07/2001 OPMV.399/1998 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, TRIVANDRUM)
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APPELLANT: 3RD RESPONDENT:

UNITED INDIA INSURANCE CO.LTD., BRANCH OFFICER, IIND FLOOR, MALANKARA BUILDING ,TRIVANDRUM,REPRESENTED BY THE DEPUTY MANAGER, IIIRD PARTY CLAIMS, UNITED INDIA INSURANCE CO.LTD.,VETTUKATTIL BUILDINGS, M.G.ROAD, ERNAKULAM, DULY AUTTHORISED AND EMPOWERED TO REPRESENT THE APPELLANT.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: PETITIONERS 1 TO 5 & RESPONDENTS 1 AND 2:
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1. **KUNJUMOL ALIAS PREETHA, PUZHIKARA PUTHENVEEDU, NEAR TOURIST VILLAGE, VELI, TITANIUM P.O., KOCHIVELI, THIRUVANANTHAPURAM-21.**

2. **VISHNU, RESIDING AT POZHIKARA PUTHENVEEDU, NEAR TOURIST VILLAGE, VELI, TITANIUM P.O.,KOCHIVELI, THIRUVANANTHAPURAM-21.**

..2/-

3. MALU, RESIDING AT POZHIKARA
   PUTHENVEEDU, NEAR THOURST VILLAGE,
   VELI,TITANIUM P.O., KOCHIVELI,
   THIRUVANANTHAPURAM-21.

4. BHARGAVAN, RESIDING AT POZHIKARA
   PUTHENVEEDU,NEAR TOURIST VILLAGE,
   VELI, TITANIUM P.O.,
   KOCHUVELI, THIRUVANANTHAPURAM-21.

5. THANKAMMA, RESIDING AT POZHIKARA
   PUTHENVEEDU, NEAR THOURIST VILLAGE,
   VELI, TITANIUM P.O., KOCHIVELI,
   THIRUVANANTHAPURAM-21.

6. S.SUDARSANAN, MUDUMPIL VEEDU,
   KARIKKAKOM, BEACH P.O.,
   THIRUVANANTHAPURAM.

7. RAVEENDRAN, S/O.PANKAJAKSHAN,
   NILAKKATHARA KIZHAKAETHIL,
   ADINADU NORTH, K.S.PURAM VILLAGE,
   KARUNAGAPPALLY TALUK.

BY ADV. SRI.R.T.PRADEEP for R1 to R5
SRI.J.ROBINSON

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.7810/2002 IN M.F.A.NO.1301/2002

DISMISSED

02/08/2007 **SD/- J.B.KOSHY, JUDGE**

SD/- V.GIRI, JUDGE

/TRUE COPY/

P.A.TO JUDGE

KSS

J.B.KOSHY & V.GIRI,JJ.

MFA NO. 1301 of 2002

Dated this the 2nd day of August, 2007

JUDGMENT

Insurance Company questions the award of the Motor Accidents Claims Tribunal in granting compensation to the dependents of a deceased youngster. The husband of the first respondent met with a motor accident and died on 4.2.1998 at the age of 24. The Tribunal awarded compensation of Rs.4,29,000/= against a claim of Rs.8 lakhs. The only quantum of compensation is disputed in this appeal and therefore we are only considering the same. The policy was admitted. According to the learned counsel for the claimant, income of the deceased was Rs.4,000/= per month. He was maintaining his wife, two minor children and parents and he was the sole bread winner of the family. According to the appellant Insurance Company, Rs.3,000/= taken as the monthly income of the deceased, is on the higher side. In Kerala, even a manual worker would get more than Rs.150/= per day during 1998. Fixation of Rs.3,000/= as monthly income cannot be stated be on the higher side. Only Rs.2,000/= was taken towards dependency. The next contention is regarding the multiplier. The deceased was aged 24 years. His wife was only 22. 17 is the multiplier to be used in the present case. A three member bench of the Supreme Court in **Smt.Supe Dei and others v M/s National Insurance Co.Ltd. and another** (JT 2002

Suppl. SC 451) held that 2nd schedule should be taken as a guideline even for fixing compensation under Section 166. Apex Court in several cases held that if the victim is aged 20 and 25, highest multiplier can be used. As per second schedule, if the victim's age is between 20 and 25, multiplier is 17. But the Tribunal has taken only 16 as the multiplier. When a person is dead leaving his widow and two children, the contention of the Insurance Company that the age of the parents should be taken for fixing multiplier cannot be accepted. In the above circumstances, we see no grounds to interfere with the award at the instance of the Insurance Company. We are not considering the enhancement as the claimants have not filed any application for enhancement of compensation.

MFA is dismissed as above.

J.B.KOSHY, JUDGE

V.GIRI,JUDGE

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J.B.KOSHY, J.
&
V.GIRI,J.

MFA 1301 OF 2002

JUDGMENT

2/8/2007